

CITY OF SAN JOSÉ, CALIFORNIA Department of Planning, Building and Code Enforcement 801 North First Street, Room 400 San José, California 95110-1795		Hearing Date/Agenda Number P.C. 7/23/03 Item: 3.d.
<h1>STAFF REPORT</h1>		File Number CP 03-022
		Application Type Conditional Use Permit
		Council District 7
		Planning Area South
		Assessor's Parcel Number(s) 477-46-054
PROJECT DESCRIPTION		Completed by: Alison Hicks
Location: Southwest terminus of McLaughline Avenue and Carnelian Drive		
Gross Acreage: 10.5	Net Acreage: 10.5	Net Density: N/A
Existing Zoning: R-1-8 Residence	Existing Use: Church	
Proposed Zoning: No change	Proposed Use: Church and wireless communication facility	
GENERAL PLAN		Completed by: Alison Hicks
Land Use/Transportation Diagram Designation Medium Low Density Residential (8 DU/AC)		Project Conformance: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> See Analysis and Recommendations
SURROUNDING LAND USES AND ZONING		Completed by: Alison Hicks
North: Single-family detached residential	R-1-8 Residence and A(PD) Planned Development	
East: Single-family detached residential	R-1-8 Residence	
South: Single-family detached residential	R-1-8 Residence	
West: Single-family detached residential	R-1-8 Residence	
ENVIRONMENTAL STATUS		Completed by: Alison Hicks
<input type="checkbox"/> Environmental Impact Report found complete <input type="checkbox"/> Negative Declaration circulated on <input type="checkbox"/> Negative Declaration adopted on		<input checked="" type="checkbox"/> Exempt <input type="checkbox"/> Environmental Review Incomplete
FILE HISTORY		Completed by: Alison Hicks
Annexation Title: McKinley No. 63		Date: June 30, 1975
PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION		
<input type="checkbox"/> Approval <input checked="" type="checkbox"/> Approval with Conditions <input type="checkbox"/> Denial <input type="checkbox"/> Uphold Director's Decision		Date: _____ <input type="checkbox"/> _____ Approved by: _____ <input checked="" type="checkbox"/> Action <input type="checkbox"/> Recommendation
APPLICANT	CONTACT	OWNER
Jim Graham, Verizon Wireless 2785 Mitchell Drive Walnut Creek, CA 94598	Ashraf Rageh, Cal Com Systems 2001 Omega Road, Suite 201 San Ramon, CA 94583	Stephen Wilson San José Christian Community Church 1523 Mc Laughlin Avenue San José, CA 95122

PUBLIC AGENCY COMMENTS RECEIVED

Completed by: Alison Hicks

Department of Public Works

See attached.

Other Departments and Agencies

See attached.

GENERAL CORRESPONDENCE

None received.

ANALYSIS AND RECOMMENDATIONS

BACKGROUND

The developer, Verizon Wireless, is requesting a Conditional Use Permit to allow a wireless communication facility, including 12 wireless communication panel antennas, inside a new 60 foot tall, free-standing church steeple; 2 global positioning system antennas; and a 436 square foot equipment shelter on a 10.5 gross acre site. The Zoning Ordinance requires a Conditional Use Permit for wireless communication antennas in the R-1 Residence Zoning District.

The San José Christian Community Church and church-related structures, including a school building, storage building, library, office and accessory building, are located on the site. The balance of the site consists of a ball field, a basketball area and parking lot. The site is bounded by adjacent single-family residential uses on all sides.

In 1996, staff explored the issues of electromagnetic radiation to determine if emissions from the proposed antennas posed a public health concern. Staff found that the low-frequency, low-energy, non-ionizing emission associated with wireless communications antennas were well below the recognized safety standards set by the American National Standards Institute (ANSI). Staff concluded there was no evidence that such transmission would result in adverse health effects to people living or working in the vicinity of the antennas. Further, Staff investigated reports that wireless communication transmission interfered with hearing aids, pace makers, and other electronic devices. Staff determined the reported interference resulted from cordless telephones and not from the antennas.

Project Description

The proposed church steeple is 60 feet tall, including the 6-foot cross on its peak, and 10 feet, 6 inches wide. It contains the 12 wireless communication panel antennas. Steeple legs will be steel for structural support, but the exterior panels will be wood at the base to match the existing structures on the property. At the top, the exterior panels will be made of a durable fiberglass material with a stucco finish. Both the top and bottom exterior panels will be painted to match the church and other existing structures. A column of openings, including an arched opening at the top, will adorn the steeple and diminish wind resistance. Soft lighting will emanate from within the steeple. Openings will include wood trim for detail and articulation. The roof will be made with a tile that matches the church building.

The steeple will be located at the entry to the site to the northwest of the sanctuary and other main church buildings. This location is central to the site and nearly as far as possible from adjacent residential uses.

Verizon Wireless proposes to lease ground space on the property to locate an approximately 11 foot tall, 12 foot by 20 foot equipment shelter. Two hockey puck sized GPS antennas will be mounted onto the shelter.

The structure will be made of a concrete aggregate with a stucco finish and painted to match the church sanctuary. It will be located behind the existing school building and thus will not be visible from McLaughlin Avenue.

ENVIRONMENTAL REVIEW

The Director of Planning has determined that this project is exempt from further environmental review under the provisions of the California Environmental Quality Act. The Environmental Quality Act Section 15301 Class 1 exemption consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. The proposed communication facility is located and designed in a manner that is compatible with the existing church facility and the surrounding neighborhood and is considered a negligible expansion of the existing use.

GENERAL PLAN CONFORMANCE

The proposed use is consistent with the San José 2020 General Plan Land Use/Transportation Diagram designation of Medium Low Density Residential (8 DU/AC) in that a public quasi use can be found consistent with any General Plan designation..

ANALYSIS

The primary issue analyzed is conformance to Council Policy 6-20, Land Use Policy for Wireless Communications Antennas, which provides criteria for siting such facilities including 1) land use compatibility, 2) visual impacts, 3) height limits, 4) setbacks from residential uses, and 5) parking requirements. The proposed project conforms with the overall guidelines within this Policy as well as the Draft Update to the Policy (attached).

Land Use Compatibility

Council Policy 6-20 states that "antennas located on residentially-designated properties solely developed with non-residential uses such as parks, schools, public utilities, and churches may be acceptable subject to review in accordance with the City's Zoning Ordinance." The subject wireless communication antenna is proposed to be located in the R-1-8 Residence Zoning district. The Zoning Ordinance allows wireless communication antennas in this district with a Conditional Use Permit when developed with a non-residential use such as a church.

Visual Impacts

Council Policy for wireless communication states that such facilities should be "sited so as to minimize visual impacts. Integration of antenna installations within new or existing buildings is the preferred approach." Building new architectural elements, such as church steeples, to camouflage installations is encouraged. "Equipment areas should be screened as appropriate" and may be screened within built structures. They must conform to setback requirements for the underlying zoning district.

The project proposes to minimize visual impacts by mounting antennas within a new stand-alone steeple. Associated equipment will be screened within a 436 square foot building designed to blend with existing buildings on the site as described above. Both the steeple and the equipment shelter conform to setback requirements for the R-1-8 Residence Zoning District.

Height

Council Policy states that antenna installations should conform to the San José 2020 General Plan and Zoning Ordinance height restrictions. The Zoning Ordinance allows the maximum height of a building-mounted wireless communication antenna to be increased over the maximum height of the zoning district in which it is located provided that the overall height of the building or structure, including antennas, does not exceed sixty (60) feet, the antenna is architecturally integrated into the building and all ancillary equipment is screened, and the antenna does not add to the visual clutter of the building or structure.

The new steeple is 60 feet in height, including both the steeple and the cross at its peak. The antennas will be completely concealed within the steeple and staff has concluded that the facility is in conformance with the Zoning Code and Council Policy in regard to height.

Setbacks from Residential Uses

Council Policy 6-20 states that “Building- or structure-mounted antennas should be located a minimum of 50 feet horizontally from any property with a single-family attached or detached residential use.” The subject site is surrounded by single-family detached residential uses and McLaughlin Avenue to the northeast. The antennas, however, will be concealed within a steeple and the steeple will be located approximately in the middle of the site. The steeple will be approximately 450 feet from the residential uses to the southeast, 340 feet from the residential uses to the southwest, 480 feet from the residential uses to the northwest, and 130 feet from the residential uses across McLaughlin Avenue to the northeast.

Parking

Council Policy for wireless communication states that such facilities should not reduce existing parking on the site. The proposed project does not reduce existing parking.

For the reasons stated above, staff concludes that the subject proposal is consistent with Council Policy 6-20 and compatible with the surrounding neighborhood.

PUBLIC OUTREACH

A notice of the public hearing was distributed to the owners and tenants of all properties within 500 feet of the project site. Planning staff has received no public comments in regards to the proposed project at this time.

RECOMMENDATION

The Planning staff recommends that the Planning Commission approve the requested Conditional Use Permit and include the following findings and conditions in its Resolution.

The Planning Commission finds that the following are the relevant facts regarding this proposed project:

1. The developer, Verizon Wireless, is requesting a Conditional Use Permit to allow a wireless communication facility, including 12 wireless communication panel antennas, inside a new 60 foot tall, free-standing church steeple; 2 global positioning system antennas; and a 436 square foot equipment shelter on a 10.5 gross acre site.
2. The site is in the R-1-8 Residence Zoning District.
3. The Zoning Ordinance requires a Conditional Use Permit for wireless communication antennas in the R-1-8 Residence Zoning District.
4. The San José Christian Community Church and church-related structures, including a school building, storage building, library, office and accessory building, are located on the site. The balance of the site consists of a ball field, a basketball area and parking lot.
5. The site is bounded by adjacent single-family residential uses on all sides.
6. In 1996, staff explored the issues of electromagnetic radiation to determine if emissions from the proposed antennas posed a public health concern. Staff concluded there was no evidence that such transmission would result in adverse health effects to people living or working in the vicinity of the antennas.
7. The proposed church steeple is 60 feet tall, including the 6-foot cross on at its peak, and 10 feet, 6 inches wide. It contains the 12 wireless communication panel antennas. Steeple legs will be steel for structural support, but the exterior panels will be wood at the base to match the existing structures on the property. At the top, the exterior panels will be made of a durable fiberglass material with a stucco finish. Both the top and bottom exterior panels will be painted to match the church and other existing structures. A column of openings, including an arched opening at the top, will adorn the steeple and diminish wind resistance. Soft lighting will emanate from within the steeple. Openings will include wood trim for detail and articulation. The roof will be made with a tile that matches the church building.
8. The steeple will be located at the entry to the site to the northwest of the sanctuary and other main church buildings. This location is central to the site and nearly as far as possible from adjacent residential uses.
9. Verizon Wireless proposes to lease ground space on the property to locate an approximately 11 foot tall, 12-foot by 20-foot equipment shelter. Two hockey puck sized GPS antennas will be mounted onto the shelter. The structure will be made of a concrete aggregate with a stucco finish and painted to match the church sanctuary.
10. The equipment shelter will be located behind the existing school building and thus will not be visible from McLaughlin Avenue.
11. Under the provisions of Section 15301 of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), this project is exempt from environmental review.
12. The proposed use is consistent with the San José 2020 General Plan Land Use/Transportation Diagram designation of Medium Low Density Residential (8 DU/AC).

13. The subject wireless communication antenna is proposed to be located in the R-1-8 Residence Zoning district. The Zoning Ordinance allows wireless communication antennas in this district with a Conditional Use Permit.
14. Council Policy for wireless communication states that such facilities should be “sited so as to minimize visual impacts. The project proposes to minimize visual impacts by mounting antennas within a new standalone steeple. Associated equipment will be screened within a 436 square foot building designed to blend with existing buildings on the site as described above.
15. Both the steeple and the equipment shelter conform to setback requirements for the R-1-8 Residence Zoning District.
16. The new steeple is 60 feet in height, including both the steeple and the cross at its peak. The antennas will be completely concealed within the steeple and staff has concluded that the facility is in conformance with the Zoning Code and Council Policy in regard to height.
17. Council Policy 6-20 states that “Building- or structure-mounted antennas should be located a minimum of 50 feet horizontally from any property with a single-family attached or detached residential use.” The antennas will be concealed within a steeple and the steeple will be located approximately in the middle of the site. The steeple will be approximately 450 feet from the residential uses to the southeast, 340 feet from the residential uses to the southwest, 480 feet from the residential uses to the northwest, and 130 feet from the residential uses across McLaughlin Avenue to the northeast.
18. The project does not reduce the existing on-site parking.

This Planning Commission concludes and finds, based upon an analysis of the above facts that:

1. The proposed project is consistent with the adopted San José 2020 General Plan Land Use/Transportation Diagram of the City of San José.
2. The proposed project complies with all applicable provisions of the Zoning Ordinance.
3. The proposed project is in compliance with the California Environmental Quality Act.
4. The proposed project is consistent with City Council Policy 6-20: Land Use Policy and Draft Policy for Wireless Communication Facilities.
5. The proposed project appropriately reduces the visual impact of the facility by concealing antennas within a new stand alone steeple.
6. The proposed project contains adequate setbacks from single-family residential uses.
7. The proposed project will not eliminate parking.

Finally, based upon the above-stated findings and subject to the condition set forth below, the Planning Commission finds that:

1. The proposed use at the location requested will not

- a. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; or
 - b. Impair the utility or value of property of other persons located in the vicinity of the site; or
 - c. Be detrimental to public health, safety or general welfare; and
2. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this title, or as is otherwise required in order to integrate said use with the uses in the surrounding areas; and
 3. The proposed site is adequately served:
 - a. By highways or streets of sufficient width and improved as necessary to carry the kind and quality of traffic such use would generate; and
 - b. By other public or private service facilities as are required.

In accordance with the findings set forth above, a Conditional Use Permit to use the subject property for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby granted. This Planning Commission expressly declares that it would not have granted this permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

CONDITIONS PRECEDENT

This Conditional Use Permit shall have no force or effect and the subject property shall not be used for the hereby permitted uses unless and until all things required by the below-enumerated precedent conditions shall have been performed or caused to be performed and this Resolution has been recorded with the County Recorder.

1. **Acceptance and Payment of Recording Fees.** The "Acceptance of Permit and Conditions" form shall be **signed, notarized, and returned** to the Department of City Planning within **60 days** from the date of issuance of the resolution granting the permit. *Failure to do so will result in this permit automatically expiring regardless of any other expiration date contained in this permit.* Fees for recording a Certificate of Permit with the Recorder for the County of Santa Clara must be submitted along with the Acceptance Form.

CONCURRENT CONDITIONS

The subject property shall be maintained and utilized in compliance with the below-enumerated conditions throughout the life of the permit:

1. **Conformance with Plans.** Construction and development shall conform to approved development plans entitled, "Verizon Wireless, McLaughlin Bacchus", dated July 11, 2003, on file with the Department of City Planning and Building and to the San José Building Code (San José Municipal Code, Title 24)

2. **Nuisance.** This use shall be operated in a manner, which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.
3. **Construction Hours.** Construction shall be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any on-site or off-site work within 500 feet of any residential unit.
4. **Lighting.** This permit allows no on-site exterior lighting.
5. **Tree Removals.** No tree larger than 56 inches in circumference, at a height 24 inches above the natural grade slope, may be removed without a Tree Removal Permit issued by the Director of Planning.
6. **Outside Storage.** No outside storage is permitted for the project except in areas designated on the approved plan set.
7. **Sign Approval.** No signs are approved at this time. All proposed signs shall be subject to approval by the Director of Planning.
8. **Steeple Signage.** No signage will be permitted on the steeple.
9. **Colors and Materials.** All building colors and materials must match the sanctuary colors and materials.
10. **Public Works Clearance.** An Elevation Certificate for the proposed equipment shelter, based on construction drawings, is required prior to the issuance of a building permit. Consequently, an Elevation Certificate for each built structure, based on finished construction, is required prior to final building inspection.
11. **Building Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:
 - a. *Construction Plans.* This permit file number, CP 03-022 shall be printed on all construction plans submitted to the Building Division.
 - b. *Emergency Address Card.* The project developer shall file an Emergency Address Card, Form 200-14, with the City of San José Police Department.
12. **Hazardous Materials.** Any hazardous materials regulated by Chapter 17.68 of the San José Municipal Code on the site must be used and stored within approved buildings and/or within areas specified on the approved plan set, if any, in full compliance with the City's Hazardous Material Ordinance and the Hazardous Materials Management Plan for the site approved by the San José Fire Prevention Bureau.
13. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement.
14. **Co-location.** The owner(s) and operators of the proposed antenna support structure shall allow the co-location of PSC antennas for other providers. Future collocation that does not increase the height of the utility structure may be permitted through a permit adjustment at the discretion of the Planning

Director.

15. **Generators.** This permit does not include approval of emergency back-up generator on the subject site.

CONDITIONS SUBSEQUENT

1. **Permit Expiration.** This Conditional Use Permit shall automatically expire two years from and after the date of adoption of the Resolution by the Planning Commission, or by the City Council on appeal, granting this Permit, if within such two-year period, the proposed use of this site or the construction of buildings has not commenced, pursuant to and in accordance with the provisions of this Conditional Use Permit. The date of adoption is the date the Resolution granting this Conditional Use Permit is approved by the Planning Commission. However, the Director of Planning may approve a Permit Adjustment to extend the validity of this Permit for a period of up to two years. The Permit Adjustment must be approved prior to the expiration of this Permit.
 2. **Revocation, Suspension, Modification.** This Conditional Use Permit may be revoked, suspended or modified by the Planning Commission, or by the City Council on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 3, Chapter 20.44, Title 20 of the San José Municipal Code it finds:
 - a. A violation of any conditions of the Conditional Use Permit was not abated, corrected or rectified within the time specified on the notice of violation; or
 - b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
 - c. The use as presently conducted creates a nuisance.
- c: Building Division
Applicant and property owner
Attachments